

§ 58-10-780. Confidentiality.

(a) Documents, materials, or other information, including the CGAD, in the possession or control of the Department that are obtained by, created by, or disclosed to the Commissioner or any other person under this Part, are recognized as proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be considered a public record under either G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the Commissioner may share or receive confidential documents, materials, or other CGAD-related information pursuant to subsection (c) of this section to assist in the performance of the Commissioner's duties.

(b) Neither the Commissioner nor any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the Commissioner, or with whom such documents, materials, or other information are shared pursuant to this Part shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the Commissioner's regulatory duties, the Commissioner may do all of the following:

- (1) Upon request, share documents, materials, or other CGAD-related information including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, with the NAIC, and with third-party consultants pursuant to G.S. 58-10-785, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, material, or other information and has verified in writing the legal authority to maintain confidentiality.
- (2) Receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as described in G.S. 58-19-37, and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(d) The sharing of information and documents by the Commissioner pursuant to this Part shall not constitute a delegation of regulatory authority or rule making, and the Commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this Part.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials or other CGAD-related information shall occur as a result

of disclosure of CGAD-related information or documents to the Commissioner under this section or as a result of sharing as authorized in this Part. (2019-57, s. 3(a).)